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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,032	01/02/2002	Brant L. Candalore	SNY-R4646.02	7076
24337	7590	01/11/2006	EXAMINER	
MILLER PATENT SERVICES 2500 DOCKERY LANE RALEIGH, NC 27606			SONG, HOSUK	
			ART UNIT	PAPER NUMBER
			2135	
DATE MAILED: 01/11/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/038,032	Applicant(s) CANDELORE ET AL.	
	Examiner Hosuk Song	Art Unit 2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 19-48, 68-79 and 84-110 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 19-48, 68-79 and 84-110 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/038,032</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In response to restriction requirement, Applicant elected the invention of Group I consisting of claims 1-14,19-48,69-79 and 84-110 without traverse.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7,9-10,12-14,19-26,28-30,90-96,99-110 are rejected under 35 U.S.C. 102(e) as being anticipated by Herley et al(US 6,976,166).

Claims 1,19,90,101: Herley disclose sampling the unencrypted television program at a specified time interval for each sample in (fig.3). Herley disclose encrypting the sample according to a first encryption method to create first encrypted sample and encrypting the sample according to a second encryption method to create a second encrypted sample in (col.3,lines 24-29 and fig.4).

Claims 2,20: Herley disclose combining the first and second encrypted samples with unsampled portions of the unencrypted television program to produce partially multiple encrypted television programs in (col.2,lines 20-27).

Claims 3,21: Herley disclose distributing the partially multiple encrypted television program over a communication medium in (fig.3,5).

Claims 4,22: Herley disclose assigning a plurality of primary packet identifiers(PID) to data packets containing unencrypted portions of the television program, the primary packet identifiers associating the unencrypted portion with the television program in (col.3,lines 1-6 and fig.3).

Claims 5,23: Herley disclose assigning a plurality of primary packet identifiers(PID) to data packets containing first encrypted samples of the television program, the primary packet identifiers associating the first encrypted samples with the television program in().

Claim 6: Herley disclose assigning a plurality of secondary packet identifiers(PID) to data packets containing second encrypted samples of the television program, the secondary packet identifiers associating the second encrypted samples with the television program.

Claims 7,26: Herley disclose assigning a plurality of primary packet identifiers(PID) to data packets containing unencrypted portions of the television program, the primary packet identifiers associating the unencrypted portions with the television program(col.3,lines1-29).
Herley disclose assigning the plurality of primary packet identifiers to data packets containing first encrypted samples of the television program, the primary packet identifiers associating the first encrypted samples with the television program and assigning a plurality of secondary packet identifiers to data packets containing second encrypted samples of the television program, the secondary packet identifiers associating the second encrypted samples with the television program in (col.3,lines 21-29).

Claims 9,27: Herley disclose each sample comprises data associated with a frame of video in (col.3,lines 1-3).

Claims 10,28: Herley disclose each sample comprises at least one packet of data in (fig.3).

Claim 12: Herley disclose distributing at least one of the first and second encrypted samples separately from unsampled portions of the unencrypted television program in (fig.3 and col.3,lines 1-6;col.4,lines 4-7).

Claims 13,29: Herley disclose an electronic storage medium storing instructions which when executed on a programmed processor in (fig.5 and col.4,lines 63-67).

Claim 14: Herley disclose an electronic transmission medium carrying an encrypted television signal in (fig.5).

Claim 24: Herley disclose assigning a secondary packet identifier (PID) to data packets containing first encrypted sample of the television program, the secondary packet identifier associating the first encrypted samples with a particular television program in (col.2,lines 31-36).

Claim 25: Herley disclose assigning a primary packet identifier(PID) to data packets containing first encrypted samples and unencrypted portions of the television program, the packet identifier associating the first encrypted samples and the unencrypted portions with a particular television program in (col.3,lines 1-6;col.4,lines 4-9).

Claim 30: Herley disclose an electronic transmission medium carrying a multiple encrypted television program in (fig.3 and col.24-29).

Claim 91: Herley disclose combining the first and second encrypted frames with unencrypted frames of the unencrypted frames of the unencrypted television programs to produce partially dual encrypted television programs in(col.3,lines 1-6).

Claim 92: Herley disclose distributing the partially dual encrypted television programs over one of a cable television system, a terrestrial broadcast system, and a satellite system in (col.6,lines 11-13).

Claim 93-96: see claims rejection 5-7 above.

Claim 99: Herley disclose electronic storage medium storing instructions executed on a programmed processor in (fig.5).

Claim 100: Herley disclose an electronic storage medium carrying an encrypted television signal encrypted by the method according to claim 90 in (col.3,lines 1-4,24-32).

Claim 102: Herley disclose combining the first encrypted sample and the second encrypted sample with unencrypted portions of the television program to produce a multiple partially encrypted television program in (fig.2 and col.3,lines 1-6,24-29).

Claim 103: Herley disclose distributing the multiple partially encrypted television program over a cable television system in (col.6,lines 11-12).

Claim 104-110: see claims rejection 91-100 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 8,11,31-32,34-48,69-79,84-89,97-98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herley et al(US 6,976,166).

Claims 8,97: Herley does not specifically disclose transmitting system information to identify the primary and secondary PID associated with the television program. It would have been obvious to modify the invention of Herley to transmit system information in order to recognize and construct packets associated with tv program.

Claims 11,98: Herley does not specifically disclose specified time interval comprises a randomly occurring time interval. Official notice is taken that random time interval is well known in the art. One of ordinary skill in the art at the time invention was made to employ random time interval in order to produce unpredictable time based encrypted information so that hacker is discouraged from using a repeated or brute attacks.

Claims 31,44,69,84: Herley disclose encrypting the sample according to a first encryption method to create first encrypted sample and encrypting the sample according to a second encryption method to create a second encrypted sample in (col.3,lines 24-29 and fig.4). Herley does not specifically disclose encrypting N periods out of every M periods. It would have been obvious to person of ordinary skill in the art to recognize that since Herley teaches splitting information into plurality of files using different encryption methods, enciphering/unenciphering each files requires different time periods thus minimizing error rate.

Claim 32: Herley disclose combining the first and second encrypted periods with unencrypted periods to produce a partially multiple encrypted television program in (fig.3).

Claims 34-43,45-48: Herley disclose assigning a primary packet identifier(PID) to unencrypted periods of the television program in (fig.3).

Claims 70: Herley disclose filtering out the N periods encrypted according to the second encryption method in (col.2,lines 20-26,31-43).

Claim 71: Herley disclose filtering is carried out by filtering on a packet identifier(PID) associated with data packets in (fig.2).

Claim 72: Herley disclose period comprises data associated with a frame of video in (col,lines 1-3).

Claim 73: Herley disclose period comprises at least one packet of data in (fig.3).

Claim 74: Herley disclose period comprises data associated with a frame of audio in (col.3,lines 1-4).

Claim 75: Herley disclose storage medium storing instructions executed on a programmed processor in (fig.5).

Claim 76: Herley disclose television device in (col.6,lines 11-15).

Claim 77: Herley disclose television set-top box in (col.6,lines 12-13).

Claim 78: Herley disclose integrated circuit in (col.6,lines 11-13).

Claim 79: Herley disclose application specific integrated circuit, a programmable logic device and a field programmable gate array in (fig.5).

Claim 85: Herley disclose filtering means filters out the N periods encrypted according to the second encryption method in (fig.2 and col.24-29).

Claim 86: Herley disclose filtering is carried out by the filtering means filtering on a packet identifier(PID) associated with data packets in ().

Claim 87: Herley disclose period comprises data associated with a frame of video in (col.3,lines 1-3).

Claim 88: Herley disclose period comprises at least one packet of data in (fig.3).

Claim 89: Herley disclose decoder comprises an MPEG decoder in (col.4,lines 51-53).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-14,19-30,90-110 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-39,98-101 of copending Application No. 10/037,499. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter.

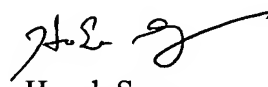
Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

USPTO Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hosuk Song whose telephone number is 571-272-3857. The examiner can normally be reached on Tue-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Hosuk Song
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Art Unit 2135